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MEMORANDUM

October 14, 2011

TO: The Commission

FROM: Anthony Herman
General Counsel

BY: Kathleen M. Grith *KG*
Acting Associate General Counsel
for Enforcement

Peter G. Blumberg *PGB*
Assistant General Counsel

Thomas J. Andersen *TAJ*
Attorney

Maristone Abely *MA*
Attorney

SUBJECT: MUR 6040 (Rangel)

RE: Response of Representative Charles B. Rangel

This memorandum discusses the response of Representative Rangel (Attachment 1) to our October 4, 2011 notification letter, which we sent in accordance with the Commission's instruction to apprise Rep. Rangel of material information obtained during our investigation of this matter.¹ As discussed more fully below, Rep. Rangel's response merely reiterates arguments that he has made previously in this matter. See General Counsel's Report #2 dated August 9, 2011 ("GCR #2"). Accordingly, we renew the recommendations in GCR #2 not voted on by the Commission at its previous Executive Session. Specifically, we recommend that the

¹ On October 4, 2011, the Commission voted to enter into pre-probable cause conciliation and approved a proposed agreement with Fourth Lenox Terrace Associates a/k/a Fourth Lenox Terrace Development Associates ("Fourth Lenox"), a general partnership, based on excessive in-kind contributions made to Representative Charles B. Rangel's authorized committee and his leadership PAC ("the Committees"). The Commission also voted to enter into pre-probable cause conciliation with the Committees based on their acceptance and failure to report the in-kind contributions, but did not approve a proposed agreement at that time. The Commission's findings were based on information that the Committees may have paid less than the usual and normal charge for office space because they occupied a rent-stabilized apartment under terms and conditions that Fourth Lenox did not offer to similarly situated tenants.

1 Commission: (1) find reason to believe Rep. Rangel violated 2 U.S.C. § 441a(f); (2) approve the
2 attached revised Factual & Legal Analysis (Attachment 1); (3) enter into pre-probable cause
3 conciliation with Rep. Rangel; and (4) approve the attached proposed joint conciliation
4 agreement (Attachment 2). |

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6 We are amending the Factual and Legal Analysis to reflect the Commission's notification
7 to Rep. Rangel and his response. As discussed in the attached amended Factual & Legal
8 Analysis, Rep. Rangel's submission sets forth the following factual and legal arguments:
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23 Counsel's arguments were largely addressed and analyzed in the context of the
24 Commission's previous actions in this matter concerning Rep. Rangel's authorized committee
25 and his leadership PAC ("the Committees"). See, e.g., First General Counsel's Report dated
26 November 30, 2009, pp. 10, 12-16; GCR #2 at 14-15, 20-21. Although counsel argues that the
27 Committees have been paying the maximum rent for Unit 10U under the Rent Code and Rep.
28 Rangel may not have "violated" the Rent Code, our legal analysis does not turn on Rent Code
29 rules. Instead, we conclude that by remaining in a rent-stabilized apartment when similarly
30 situated tenants were being forced to relinquish their apartments, the Committees were paying a
31 discounted rent that constituted an in-kind contribution from the landlord, Fourth Lenox.
32 Similarly, whether there is "evidence of corruption" or a violation of "House gift rules" is not
33 relevant to whether a contribution resulted from the preferential treatment afforded Rep. Rangel
34 when Fourth Lenox did not apply its "non-primary residency program" against Rep. Rangel.³

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2 The response also states that Rep. Rangel lacked knowledge of whether he was ever
3 issued a Golub notice or whether his congressional office had received complaints from
4 constituents about the non-primary residence program. However, it is precisely because Rep.
5 Rangel did not receive a Golub notice -- and therefore was not forced to vacate Unit 10U, unlike
6 numerous other similarly situated tenants -- that he may have paid less than the customary charge
7 for the space. Also, as noted in GCR #2, documents made public by the House Ethics
8 Committee revealed that Rep. Rangel's staff received complaints from constituents living in
9 Lenox Terrace regarding legal actions brought against them by Olnick (the apartment's
10 management company) based on non-primary residency. GCR #2 at 20, fn. 27. Rep. Rangel's
11 District Director even appears to have met with Fourth Lenox management on behalf of tenants
12 organizing a rent strike in response to this situation. Although we have no direct evidence
13 regarding Rep. Rangel's knowledge regarding these activities, it seems unlikely that he was
14 completely unaware of these events given that he resided in the apartment complex and had
15 campaign staff operating out of Unit 10U. In any case, as we point out in GCR #2 (and in our
16 recent notification letter to counsel), Rep. Rangel personally signed the original lease and all
17 renewal leases for Unit 10U; each of those documents required him to use the premises for living
18 purposes only, which he did not do. See House Ethics Committee Statement of Alleged
19 Violation at 26, available at [http://ethics.house.gov/committee-report/matter-representative-](http://ethics.house.gov/committee-report/matter-representative-charles-b-rangel)
20 [charles-b-rangel](http://ethics.house.gov/committee-report/matter-representative-charles-b-rangel).

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22 Based on the foregoing, this Office recommends the Commission approve the following
23 recommendations:

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25 **RECOMMENDATIONS:**

- 26
27 1. Find reason to believe that Representative Charles B. Rangel violated 2 U.S.C.
28 § 441a(f).
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30 2. Enter into conciliation with Representative Charles B. Rangel prior to a finding of
31 probable cause to believe.
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33 3. Approve the attached Factual & Legal Analysis.
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35 4. Approve the attached Conciliation Agreement for Representative Charles B. Rangel;
36 Rangel for Congress and Basil Paterson, in his official capacity as treasurer; and the
37 National Leadership PAC and Basil Paterson, in his official capacity as treasurer.
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39 5. Approve the appropriate letter.
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